

APPENDIX 40 - ARNG DISTANCE LEARNING PROJECT (DLP)

Section 4001 General

a. This Appendix relates to the National Guard Bureau's (NGB) federal contribution for obtaining Distance Learning (DL) services for the Army National Guard within the State. Since the provisions contained in the annual appropriation acts that fund the ARNG Distance Learning Project are not permanent legislation, this Appendix must be reviewed and modified annually in accordance with the provisions of each appropriation bill.

b. The provisions set forth in NGR 5-1/ANGI 63-101 are incorporated into this Appendix by reference.

c. Statements of Fact:

1. Public Law 103-335 (HR 4650) (FY95), provided funding for the initiation of a distance learning regional training network demonstration project. It directed that the funding provided was only for a distance learning regional training demonstration project for Pennsylvania, West Virginia, Virginia, Maryland and the District of Columbia. The law made the Chief, National Guard Bureau (CNGB) the Executive Agent for executing the project. Public Law 104-208 (HR 3610) (FY 97), and Senate Report 104-286 provided direction to the NGB to expand the distance learning project to all states. PL 104-208 also directed the CNGB to enter into agreements with the states to conduct a Distance Learning Project (DLP) and permitted the CNGB to allow use of the equipment by any person or entity on a space-available, reimbursable basis. Amounts collected under this authority are to be credited to funds available for the National Guard Distance Learning Project and are available to defray the costs associated with the use of project equipment without fiscal year limitation. The language, which permits the CNGB to allow use of the distance learning system by any person or entity on a space-available reimbursable basis, has appeared in each Defense Appropriation Act since fiscal year 1997. Since an appropriation act is made for a particular fiscal year, the presumption is that everything contained in the act is effective only for the year covered. Thus, the rule is: A provision contained in an annual appropriation act is not construed to be permanent legislation unless the language used therein or the nature of the provision makes it clear that Congress intended it to be permanent. (Office of the Comptroller General, Principles of Appropriations Law, Second Edition, Volume 1, Chapter 2). This will require a review of the appropriation language on an annual basis unless Congress inserts language that makes it permanent.

2. The project includes the development, operation, and maintenance of linked DLP centers in State designated facilities to enhance military training and overall readiness and reduce costs thereto. Congress also addressed the implementation of a Community Learning and Information Network (CLIN) community shared usage model, and the Reserve Forces Policy Board formally endorsed the CLIN concept. NGB is responsible for the overall design and implementation of the network backbone, delivery system, software, equipment, installation, integration, and courseware availability. The program has the additional responsibility of establishing and promoting civil and governmental shared usage of the DLP sites on a space-available, reimbursable basis. NGB is authorized to contribute federal funds to the State for certain expenses incurred in both rendering service and maintenance of the

DLP network.

Section 4002 Office of Primary Responsibility

a. The Office of Primary Responsibility for this Appendix is the NGB Director of Command Control Communication and Computers (NGB-J6).

b. NGB-J6, for the purposes of this Appendix, is a designee of CNGB. As such the NGB-J6 is authorized to give final approval of all DLP budgets and modifications to them and to the language of this Appendix, to authorize distribution of DLP funds to the United States Property and Fiscal Officers (USPFO), to recall DLP funding from the states when necessary, to receive specified accounting reconciliation reports, to approve minor DLP projects above a set limit, and to take any other action on behalf of NGB or CNGB, as specifically reserved under this Appendix for NGB-J6.

Section 4003 Statement of Work

a. Distance Learning Plan. The State shall prepare and submit a Distance Learning Implementation Plan (DLIP) to NGB-J6 for the record. At a minimum, it shall:

1. Describe the goals and strategies for the development of distance learning facilities within the State.
2. Describe how the State will carry out the NGB DLP missions.
3. Define the State's plan to operate and maintain the DLP sites.
4. Define the State's fundamental business plan to implement the shared use program.
5. When applicable as addressed in Section 4003.b., define the establishment of a State Advisory Board or Panel.

b. State Advisory Board or Panel. The State shall establish a State Advisory Board or Panel when commercial, non-federal use is anticipated. The State Advisory Board or Panel is chartered to provide assistance to The Adjutant General (TAG) and USPFO with regard to shared use matters at DLP sites. Responsibilities include, but are not limited to:

1. The Board or Panel's charter should provide a framework to encourage non-federal investment in the development of the State's DLP shared use program. Major objectives should include identification of resources required and scope of future site development; implementation of a State strategy; and coordination of any desired changes to State statutory or regulatory laws, which have an impact on the program.
2. The State Advisory Board or Panel should plan, develop, and implement the State program in accordance with the DLIP. The program will promote and generate shared usage in the State and local communities.

3. The Board or Panel should consist of representatives from organizations approved by the State (e.g., Office of the Governor, State Board of Education, TAG, legislature, academia, Chambers of Commerce, private industry, local school boards, and libraries).

4. All costs incurred in the operation and establishment of the State Advisory Board or Panel are the responsibility of the State.

c. Authorized Provisions:

1. The State shall provide a site(s) that meet(s) the minimum standards for a computer-assisted and video teleconferencing facility, as defined in the Distributive Training Technology (DTT) Site Preparation and Planning Guide and/or can be upgraded at a minimum cost acceptable to NGB-J6. Funding for the preparation of those sites on the fielding plan is the responsibility of the Fielding Office. The Fielding Office will fund all necessary facility upgrade costs including electrical and telecommunications line installation up to a pre-approved amount per site.

2. If the DLP site is located in a multi-service joint-use facility, TAG will coordinate operational status issues pertaining to the DLP site and the joint use of the facility with the local commander.

3. DLP Property Installed in Non-National Guard Facilities. The state, with written approval of the Grants Officer allowing the state to contract out administration of DLP equipment, may opt to install classrooms in other than National Guard facilities (e.g. college/university facilities, high schools etc). when those facilities contribute materially to access by National Guard personnel or for other cogent mission related reasons. When this situation occurs, the following minimum actions must be accomplished by the State:

(a) Site approval. Prior to use of non-federally supported sites, the location must be identified as a National Guard training site in accordance with NGR 5-1, Chapter 13, ARNG Real Property Operations and Maintenance Activities (RPOMA) and appropriate NGB approvals obtained from the Army Installation Division (NGB-ARI) and the Army Training Division (NGB-ART). Incident to such approval, the site must be added to the Federal Installation Support Plan (FISP). Reimbursement of cost, if any, is contingent upon the level of federal support authorized that site and the DLP Memorandum of Agreement prepared incident to fielding. Contracting, other than equipment installation by NGB, is the responsibility of the State.

(b) Once the site has been added to the FISP, the State and NGB must enter into a written formal agreement with the property owner which specifies the terms and conditions (liability, National Guard access requirements, authority for NGB to install the classroom, etc.) that property owner incurs with the acceptance of DLP classroom equipment. The property owner, prior to classroom installation, must agree to indemnify the federal government against any liability arising from the installation or use of the classroom by other than National Guard personnel. The agreement must specifically address:

(1) Equipment accountability

(2) Maintenance and security procedures

(3) Site utilization priorities

(4) Operational hours to meet military requirements

(5) Rate structure for site utilization

(6) Collection and disposition of program income and site use reporting requirements

(c) Equipment Accountability:

(1) The State will provide the DLP equipment to the owner of the facility IAW State procedures.

(2) The State retains ultimate accountability/responsibility for loss, damage or destruction of DLP equipment.

4. The USPFO will account for all federal equipment and furnishings. The USPFO will require a TAG representative to sign and account for the property.

5. NGB will provide the following services, some of which may be reimbursable for non-NGB use:

(a) metering

(b) network scheduling

(c) network services

(d) systems integration management

(e) courseware repository management

(f) telecommunication services for the DLP sites authorized use of the telecommunication backbone network

(g) network maintenance

(h) customer service support

(i) configuration management

(j) site security policies and procedures

6. DLP site operation, administration, and management shall be performed by the State or by its agent in coordination with the State Advisory Board or Panel. The State is

responsible for providing the services detailed hereafter, some of which may qualify for federal reimbursement.

- (a) personnel
- (b) site maintenance
- (c) intrastate telecommunications
- (d) utilities
- (e) room maintenance
- (f) supplies
- (g) taxes and licenses
- (h) reimbursement to NGB for National DTT services
- (i) equipment maintenance
- (j) life cycle replacement

(k) site availability for all federal requirements consistent with adequate advance notification and scheduled readiness training

e. Applicable Rates and Authorized Charges. Applicable rates and charges for facility use and operation will be determined by the State in accordance with site rate worksheets. All other charges are unauthorized. The State shall ensure that all fee charges, network costs, etc. associated with shared use of DLP equipment are collected and that reimbursements due to NGB are accomplished in a timely manner consistent with NGB guidance.

f. The State agrees to follow NGB guidance with respect to DLP system configuration. Recommended changes or modifications, for any reason, must be approved in advance by NGB-J6. Procedures for processing change requests have been determined and are published separately in the DTTP Configuration Management Plan. Any changes to system configuration not accomplished in accordance with published NGB guidance are not authorized and shall not be undertaken.

g. The State agrees to adhere to all security procedures promulgated by NGB with respect to DLP equipment and/or its operation.

h. DLP Program Income

1. Program income is the gross income received by the State from fees for services performed and from the use or rental of real or personal property, the operation and maintenance of which is supported under this Appendix.

2. Program income shall be added to the DLP budget as a State contribution regardless of the percentage of federal contribution reflected in this Appendix and must be reported in the Defense Assistance Awards Data System (DAADS) report.

3. The State shall report all DLP program income to NGB. Net income (i.e., that amount of income remaining after all liabilities incurred incident to the generation of gross program income have been satisfied) shall be used to defray costs associated with the use/replacement of DLP equipment. Program income may be used without regard to the fiscal year in which the income was earned.

4. The State agrees to maintain records reflecting the receipt, maintenance, and disbursement of program income and further agrees to maintain DLP program income in a separate State bank account. In the event that State Law prohibits establishment of a separate State bank account, the State must submit a request for exception to NGB that outlines a proposed alternative procedure and certifies that such procedure permits program income to be utilized without regard to the fiscal year in which the income was earned.

i. DLP enabling legislation provides specific authority for the shared use of DLP equipment that does not extend to other federally provided equipment of the National Guard.

Section 4004 Budget Requirements

a. Limitations. The State shall submit a DLP services and activities budget each fiscal year, not later than 30 June, to NGB-J6 for approval. Upon such approval, the budget shall be incorporated into this Appendix. The DLP budget shall list by line item the services and activities to be funded under this Appendix and the amount of that line item for which it expects reimbursement from NGB-J6

b. Army Management Structure Codes (AMSCOs). The State shall use the following AMSCOs in accounting for charges to this Appendix of the Agreement. No charge will be made to this Appendix or to the listed AMSCO unless it specifically falls under the guidelines of these AMSCOs or NGR 5-1/ANGI 63-1, Chapter 55.

Code Activity and Performance Factor Definitions

122G15.00	To support DLP equipment, supplies, shipping, maintenance, local travel and TDY costs associated with the implementation of this program. Provides government/contract support costs and cosmetic facilities modifications in support of the DTTP mission as specified in the DLP Cooperative Agreement. Does not include travel costs for students.
122G26.00	Operation and maintenance of ARNG portion of Defense Communications System (DCS) long haul communications services, networks, and equipment systems provided within ARNG owned/leased facilities. Services/networks include Automatic Digital

Network (AUTODIN), Defense Data Network (DDN), Defense Information System Network (DISN), Defense Message System (DMS), Defense Switched Network (DSN), Wide Area Telecommunications System (WATS), and Federal Telecommunications System (FTS) 2000 Switched Voice Service (SVS). Excludes those communications cost reported in Program Element 131G95 and all the base communication program elements (ending ****95).

c. Cost Sharing. The Fielding Office bears the cost of initial installation, equipment, and initial training for sites identified in the fielding plan. The State will be responsible for the cost of DLP services provided in accordance with Section 4003.

d. Budget Reports.

1. The State shall reconcile budget amounts with NGB-J6 periodically, as of 31 December for the previous fiscal year and 30 June for the current fiscal year. This report is due 30 days after the "as of" date.

2. The State shall submit any other requested operational, financial, or budget reports that NGB-J6 may require on a temporary basis.

3. Other reports may be required by NGB-J6.

Section 4005 Appendix and Budget Changes

a. The State must submit a written request when it wishes to decrease the federal funds in its budget or to change the instructions, terms, or conditions of this Appendix. The State must furnish a copy of the said request to NGB-J6. The request shall include an updated budget reconciliation report as an enclosure. The request shall not take effect nor can any expenditure of funds so imply therein take place until it receives the approval of NGB-J6. The request shall not be binding unless it is so approved.

b. The written request shall be on an agreement modification containing the signatures of both the USPFO and TAG or the TAG's authorized designee.

c. The State's budget changes, not requiring a written amendment, shall be reflected in the periodic reports it is required to submit to NGB-J6.

Section 4006 Funding Limitationa. Funding.

	Maximum Funding Limitation	Estimated Cost
Federal Share(100%)	\$ _____	\$ _____
Federal Total	\$ _____	\$ _____
Program Income	\$ _____	\$ _____
State Total	\$ _____	\$ _____
Grand Total	\$ _____	\$ _____

b. In-kind Assistance. The use of in-kind assistance shall be at the request of The Adjutant General, as approved by the USPFO. NGB-J6 approval is not necessary.

c. Definitions:

1. Maximum Funding Limitation. The total amount of federal funds obligated or immediately available for obligation for the federal government's share under this Appendix. In actual practice, this is the total funding that the USPFO has allocated to accounts associated with this Appendix. Except for in-kind assistance without a signed federal contract, the maximum funding limitation should be obligated upon receipt of the allotment funds.

2. Estimated Cost. The total amount of reimbursements that the federal government estimates that it will provide the State for its costs in fulfilling its responsibilities under this Appendix. This amount is the approved budget as adjusted during the fiscal year for any federally determined funding increases or decreases. In Army accounting reports, this amount is the Annual Funding Program (AFP) associated with this Appendix.

EXECUTION

By executing this Appendix, the parties agree to its terms and conditions.

IN WITNESS WHEREOF, the parties, by their authorized representatives, execute this Appendix.

<p>THE STATE [COMMONWEALTH, OR TERRITORY] OF</p> <p>BY: _____ Name/Title The Adjutant General</p> <p>_____ Date</p> <p>Approved as to budget form:</p> <p>_____ State Program Manager</p> <p>_____ Date</p>	<p>NATIONAL GUARD BUREAU</p> <p>BY: _____ Name/Title USPFO for _____</p> <p>_____ Date</p> <p>Approved as to budget form:</p> <p>_____ Chief, NGB-J6, Joint IT Programs</p> <p>_____ Date</p>
<p>Approved as to legal form:</p> <p>_____ Counsel</p> <p>_____ Date</p>	<p>Approved as to legal form:</p> <p>_____ Counsel</p> <p>_____ Date</p>